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TCDA PRETRIAL DIVERSION

What is our current pretrial diversion program?

Pretrial diversion includes our current specialty courts, TCDA supervised diversion, and probation supervised diversion. This policy provides for diversion opportunities with varying degrees of intensity with respect to programmatic requirements and supervision levels. The different programs have requirements which reflect the needs of the individual defendant. The requirements can include supervision, treatment, classes, restitution, or CSR. Some of the options involve the payment of program fees or tuition fees for classes. However, the inability of a defendant to pay these fees will not disqualify them from PTD nor will non-payment be a reason for unsuccessful discharge from the program.

What are the different diversion options?

There are three diversion tracks available.

1) Specialty courts

This track includes our current specialty courts including Mental Health Court, DWI Court, Veterans Court, Drug Court, and the Youthful Offender Program

2) TCDA supervised PTD

Cases in this track are monitored internally for a fixed period of time, typically 3 to 6 months. Defendants may be required to take a class and/or pay restitution. Once they complete the program, the case is dismissed.

3) Probation supervised PTD

This track requires defendants to report regularly to a probation officer and pay a \$60/month supervision fee. The defendant may be required to complete 1 or more classes, participate in substance abuse treatment, pay restitution, or complete other requirements. The program is for up to one year depending on the classes or other requirements to be completed.

What cases are eligible for pretrial diversion?

Technically, any case can be considered for pretrial diversion. Certain cases are “presumptively eligible” for diversion. These include most drug possession cases and property crimes. Going forward, presumptive diversion cases will be sent for diversion review automatically. Any of those that are determined to be inappropriate for diversion will be returned to the original court for traditional prosecution. For cases that are not automatically reviewed, the assigned prosecutor or the defense attorney can submit the case to be considered.

What about if the defendant is in jail?

If the defendant is in custody, the assigned prosecutor should work on a bond with the defense attorney. If the offense is presumptively eligible for diversion, the case should be referred for diversion review. If the offense is not presumptively eligible but the assigned prosecutor believes the case is otherwise appropriate, the case should be referred for consideration. An out-of-county hold or a parole hold does not disqualify a defendant from consideration.

What about if the case has a victim?

If the assigned prosecutor wants to refer a case where there is a victim, **the prosecutor should contact the victim before making the referral**. This includes property crimes as well as violent ones. The victim’s view should be considered but is not dispositive. The victim should be asked if there were any out-of-pocket costs that should be included as restitution. The contact should be documented in the work product notes. If restitution is requested, the victim’s mailing address and contact information should be confirmed or updated in TSP.

How does the defense attorney request a PTD review?

There is no longer a written application form. Defense attorneys can submit a request for review by going to the TCDA web site. [The link is here](#).

What if a case is rejected for PTD?

The case will be returned to the assigned prosecutor for normal prosecution. A “Rejected for PTD” tag will be added to the file. If a case has been rejected, but the assigned prosecutor learns new information that could impact the PTD decision, the prosecutor should put that information into a work product note and resubmit the case by changing the status to “Diversion Review”.

